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Douglas C. Morrison  
2115 25 Ave. N.W.  
Calgary, AB T2M 2C2  
CANADA

EXAMINER

ZURITA, JAMES H

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/877,094

**Applicant(s)**

MORRISON, DOUGLAS C.

**Examiner**

James H Zurita

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 15-72 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

**DETAILED ACTION*****Response to Election/Restrictions***

A First Office Action of 15 September 2004 restricted claims 1-72 into 7 different inventions.

Applicant's election with traverse of Invention I (claims 1-15) in the reply filed on 27 October 2004 is acknowledged. The Examiner notes that applicant's response includes a listing of claims 1-14 only. The Examiner will interpret applicant's actions as being a constructive election of claims 1-14, an amendment to claims 2-14, and cancellation of claim 15.

The traversal is on the ground(s) that the claims are not patentably distinct and have no separate utility. The traversal not found persuasive for reasons stated in the original Election/ Restriction Requirement and because the various claims contain limitations that address divergent matter.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Objections***

The following claims are objected to because of the following informalities:

The amendment of 27 October 2004 is not in proper form. Applicant is encouraged to review guidelines provided in MPEP 608.01(m) and 37 CFR 1.121 concerning amendments to the claims filed on or after 30 July 2003. Examples:

cl	Claim as filed 06/11/001	10/27/04
2	The method of claim 1, wherein said item refers to any product or any service, described or displayed by text, graphics, images, sound, and video, or any combination thereof.	Further to method of claim 1, to complete a transaction at least one order summary page adapted to vendors needs. (misc. ##s)

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3	The method of claim 1, wherein recorded item data is adapted a vendor's particular needs. (misc. ##s)	Further to method of claim 1, optionally comprising a method of recording with said recorded item data, the time of making said selection or change.
4	The method of claim 3, wherein said recorded item data is either temporary for order session or persistent across multiple order sessions. (misc. ##s)	Further to method of claim 1, upon loading any order page or any order summary page, a method that recalls the quantity of previously selected item(s) from said recorded item data and displaying said specified transaction amounts. (misc. ##s)
5	The method of claim 3, optionally comprising a method of recording with said recorded item data, the time of making said selection or change.	Further to method of claim 4, wherein said specified transaction amounts are calculated using values from all said recorded item data. (misc. ##s)
6	Further to method of claim 1, upon loading any order page or any order summary page, a method that recalls the quantity of previously selected item(s) from said recorded item data and displaying said specified transaction amounts. (misc. ##s)	Further to the method of claim 4, a method of reloading said order summary page once, using an intermediate referring page. (misc. ##s)
7	Further to method of claim 6, wherein said specified transaction amounts are calculated using values from all said recorded item data. (misc. ##s)	Further to method of claim 1, an optional method of calculating of said specified transaction amounts for at least one order page using a running subtotal based on each change of page total. (misc. ##s)
8	Further to method of claim 1, an optional method of calculating of said specified transaction amounts for at least one order page using a running subtotal based on each change of page total. (misc. ##s)	Further to method of claim 7, the method of said order summary page recording a value for subsequent calculation.
9	Further to the method of claim 8, a method of detecting browser error and correcting said value comprising the steps of: a) optionally issuing an instruction for user to load a page with a calculation based on said recorded item data; and (misc. ##s) b) recording for subsequent calculations said value derived from said recorded item data. (misc. ##s)	The method of claim 1, wherein said order page, in one of plurality of formats, displays of at least one item for said selection or change of item quantity.
10	The method of claim 1, wherein said order page displays of at least one item for said selection or change of item quantity.	The method of claim 1, wherein said order summary page, in list or optional picture format, displays all selected items(s).
11	The method of claim 1, wherein said order summary page, displays all selected item(s).	The method of claim 1, further comprising a method of providing elements to access any said order page and any said order summary page.
12	Further to method of claim 1, an optional method of providing item descriptive name, item price, and item preview image with immediate access to item detailed information.	Further to method of claim 1, an optional method of providing item descriptive name, item price, and item preview image with immediate access to item detailed information
13	The method of claim 1, further comprising a method of providing elements to access any said order page and any said order	Further to method of claim 1, at least one order page and at least one order summary page on; a network, at least one vendor

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	summary page.	computer, at least one client computer connected said network.
14	Further to method of claim 1, an optional method of assigning zero price to all items, thereby effectively recording item quantity selections for subsequent completion of a transaction.	Further to method of claim 1, an optional article of manufacture, wherein the item data is obtained in whole or in part from the portable computer medium

Claims 1, 2, 4-8 contain sets of numbers in parentheses that do not appear to form part of the claim language. See MPEP 608.01(m) for proper format.

Claims 1-14 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Some claims refer to methods in addition to the method specified in independent claim 1. For example,

cl	text
3	Further to method of claim 1, optionally comprising a method of recognizing...
4	Further to method of claim 1, upon ..., a method that recalls ...
6	Further to the method of claim 4, a method of reloading said...
7	Further to method of claim 1, an optional method of calculating ...
8	Further to a method of claim 7, the method of said order summary page..."
11	The method of claim 1, further comprising a method of ...
12	Further to method of claim 1, an optional method of providing ..."

For purposes of this Examination, these methods will be interpreted as steps that are part of claim 1's method.

Claim 2 lacks an active step.

Claim 8 refers to "...the method of said..." and lacks antecedent basis.

Claim 13 appears to be directed to elements of a system, for example, a network, a vendor computer, and at least one client computer connected to the network and is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim,

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and for belonging in a separate statutory class. Applicant is required to cancel the claim, or amend the claim to place them in proper dependent form, or rewrite the claim in independent form and pay the appropriate fees.

Claim 14 is directed to an article of manufacture and is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim, and for belonging in a separate statutory class. Applicant is required to cancel the claim, or amend the claim to place them in proper dependent form, or rewrite the claim in independent form and pay the appropriate fees.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 4-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Henson et al. (US Patent 6,167,383).

As per claims 1, 13 and 14, Henson discloses A method, of using a web browser for electronic shopping on a computer, that upon a selection or a change of quantity of an item on at least one order page or on at least one summary page. See, for example, at least Fig. 6, a summary page.

As per claim 1.a, Henson discloses calculating specified transaction amounts and recording selected item data without browser load or reload. See,

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for example, at least references to update price functions, at least Fig. 3A, 3B and related text.

As per claim 2, Henson discloses completing a transaction at least one summary page adapted to vendors needs. See, for example, at least Fig. 6, which shows that the page is adapted to the needs of a vendor called *Dell*.

As per claim 4, Henson discloses upon loading any order page or any summary page, recalling a quantity of previously selected item(s) from said recorded item data and displaying said specified transaction amounts. See, for example, at least references to shopping cart, At least Col. 2, lines 5-26. See also at least Fig. 6 and buttons to save a shopping cart for ordering later.

As per claim 5, Henson discloses specifying transaction amounts are calculated using values from all recorded item data. See, for example, at least Fig. 5 and related text, which shows that transaction amounts are calculated using values from all recorded item data.

As per claim 6, Henson discloses reloading said summary page once, using an intermediate referring page. See at least Fig. 5 and references to buttons that display a summary page.

As per claim 7, Henson discloses calculating specified transaction amounts for at least one order page using a running subtotal based on each change of page total. See also at least Fig. 6 and buttons to save a shopping cart for ordering later.

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As per claim 8, Henson discloses a summary page recording a value for subsequent calculation. See Fig. 6 and subsequent calculations involved in leasing, for example

As per claim 9, Henson discloses order page, in one of plurality of formats, displays of at least one item for said selection or change of item quantity. See, for example, at least Fig. 4, which displays text and pull-down menu formats.

As per claim 10, Henson discloses summary page, in list or picture format, displays all selected items(s). See at least Fig. 5, which shows list formats for selected items.

As per claim 11, Henson discloses providing elements to access any said order page and any said summary page. Please refer to buttons and URLs that may be found in any of Fig. 3A-10, for example.

As per claim 12, Henson discloses providing item descriptive name, item price, and item preview image with immediate access to item detailed information. Please see Figs. 4 and 5, for example, which show descriptive names such as "hard Drive", item prices, with immediate access (HELP ME CHOOSE) to item detailed information.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which



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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henson et al. (US Patent 6,167,383).

As per claim 3, Henson **does not** specifically disclose recording with said recorded item data, the time of making said selection or change. Henson describes the use of time in terms of build time, delivery time. It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Henson with recording of time. One of ordinary skill in the art at the time the invention was made would have been motivated to extend Henson with recording of time for the obvious reason that in order to calculate an accurate delivery date and time it is important to record what time an offer is made as the basis for presenting delivery time and build schedules.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H Zurita whose telephone number is 703-605-4966. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Jt*  
**James Zurita**  
**Patent Examiner**  
**Art Unit 3625**  
28 November 2004

  
**WYNN W. COGGINS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3600**